

UNITED STATES COURT OF APPEALS **AUG 5 2003**

TENTH CIRCUIT

PATRICK FISHER
Clerk

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

v.

ADRIAN VALDEZ-ROCHA,

Defendant-Appellant.

No. 02-2203
(D.C. No. CR-99-1267-JC)
(D. New Mexico)

ORDER AND JUDGMENT*

Before **SEYMOUR, MURPHY** and **O'BRIEN**, Circuit Judges.

After examining the briefs and appellate record, this panel has determined unanimously that oral argument would not materially assist the determination of this appeal. *See* Fed. R. App. P. 34(a)(2); 10th Cir. R. 34.1(G). The case is therefore ordered submitted without oral argument.

Adrian Valdez-Rocha pled guilty to illegal reentry after deportation subsequent to an aggravated felony conviction. He appeals his conviction and

*This order and judgment is not binding precedent, except under the doctrines of law of the case, res judicata, and collateral estoppel. The court generally disfavors the citation of orders and judgments; nevertheless, an order and judgment may be cited under the terms and conditions of 10th Cir. R. 36.3.

sentence of sixty months in prison and three years of supervised release.

Judgment in this case was entered on December 5, 2001. Mr. Valdez-Rocha did not file this notice of appeal until August 1, 2002, seven and a half months late, and six and a half months after any possible extension of time he could have received.¹ Timely notice of appeal is both mandatory and jurisdictional. *See United States v. Langham*, 77 F.3d 1280, 1280 (10th Cir. 1996). We therefore dismiss his appeal for lack of jurisdiction.

Accordingly, we **DISMISS** the appeal.

ENTERED FOR THE COURT

Stephanie K. Seymour
Circuit Judge

¹ Mr. Valdez-Rocha filed a motion to modify his sentence, which the district court denied on July 23, 2002. Although the notice of appeal was timely filed from the denial of the motion to modify, Mr. Valdez-Rocha is challenging only his original conviction and sentence.